



General Assembly

Substitute Bill No. 249

January Session, 2007

* SB00249INS__031507__ *

**AN ACT CONCERNING MEDICAL MALPRACTICE DATA REGARDING
MEDICAL PROFESSIONALS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-395 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) As used in this section:

4 (1) "Claim" means a request for indemnification filed by a
5 [physician, surgeon, hospital, advanced practice registered nurse or
6 physician assistant] medical professional or hospital pursuant to a
7 professional liability policy for a loss for which a reserve amount has
8 been established by an insurer;

9 (2) "Closed claim" means a claim that has been settled, or otherwise
10 disposed of, where the insurer has made all indemnity and expense
11 payments on the claim; [and]

12 (3) "Insurer" means an insurer that insures a [physician, surgeon,
13 hospital, advanced practice registered nurse or physician assistant]
14 medical professional or hospital against professional liability. "Insurer"
15 includes, but is not limited to, a captive insurer or a self-insured
16 person; and

17 (4) "Medical professional" has the same meaning as provided in
18 section 38a-976.

19 (b) On and after January 1, 2006, each insurer shall provide to the
20 Insurance Commissioner a closed claim report, on such form as the
21 commissioner prescribes, in accordance with this section. The insurer
22 shall submit the report not later than ten days after the last day of the
23 calendar quarter in which a claim is closed. The report shall only
24 include information about claims settled under the laws of this state.

25 (c) The closed claim report shall include:

26 (1) Details about the insured and insurer, including: (A) The name
27 of the insurer; (B) the professional liability insurance policy limits and
28 whether the policy was an occurrence policy or was issued on a claims-
29 made basis; (C) the name, address, health care provider professional
30 license number and specialty coverage of the insured; and (D) the
31 insured's policy number and a unique claim number.

32 (2) Details about the injury or loss, including: (A) The date of the
33 injury or loss that was the basis of the claim; (B) the date the injury or
34 loss was reported to the insurer; (C) the name of the institution or
35 location at which the injury or loss occurred; (D) the type of injury or
36 loss, including a severity of injury rating that corresponds with the
37 severity of injury scale that the Insurance Commissioner shall establish
38 based on the severity of injury scale developed by the National
39 Association of Insurance Commissioners; and (E) the name, age and
40 gender of any injured person covered by the claim. Any individually
41 identifiable health information, as defined in 45 CFR 160.103, as from
42 time to time amended, submitted pursuant to this subdivision shall be
43 confidential. The reporting of the information is required by law. If
44 necessary to comply with federal privacy laws, including the Health
45 Insurance Portability and Accountability Act of 1996, (P.L. 104-191)
46 (HIPAA), as from time to time amended, the insured shall arrange
47 with the insurer to release the required information.

48 (3) Details about the claims process, including: (A) Whether a
49 lawsuit was filed and, if so, in which court; (B) the outcome of such
50 lawsuit; (C) the number of other defendants, if any; (D) the stage in the

51 process when the claim was closed; (E) the dates of the trial, if any; (F)
52 the date of the judgment or settlement, if any; (G) whether an appeal
53 was filed and, if so, the date filed; (H) the resolution of any appeal and
54 the date such appeal was decided; (I) the date the claim was closed; (J)
55 the initial indemnity and expense reserve for the claim; and (K) the
56 final indemnity and expense reserve for the claim.

57 (4) Details about the amount paid on the claim, including: (A) The
58 total amount of the initial judgment rendered by a jury or awarded by
59 the court; (B) the total amount of the settlement if there was no
60 judgment rendered or awarded; (C) the total amount of the settlement
61 if the claim was settled after judgment was rendered or awarded; (D)
62 the amount of economic damages, as defined in section 52-572h, or the
63 insurer's estimate of the amount in the event of a settlement; (E) the
64 amount of noneconomic damages, as defined in section 52-572h, or the
65 insurer's estimate of the amount in the event of a settlement; (F) the
66 amount of any interest awarded due to the failure to accept an offer of
67 judgment or compromise; (G) the amount of any remittitur or additur;
68 (H) the amount of final judgment after remittitur or additur; (I) the
69 amount paid by the insurer; (J) the amount paid by the defendant due
70 to a deductible or a judgment or settlement in excess of policy limits;
71 (K) the amount paid by other insurers; (L) the amount paid by other
72 defendants; (M) whether a structured settlement was used; (N) the
73 expense assigned to and recorded with the claim, including, but not
74 limited to, defense and investigation costs, but not including the actual
75 claim payment; and (O) any other information the commissioner
76 determines to be necessary to regulate the professional liability
77 insurance industry with respect to [physicians, surgeons, hospitals,
78 advanced practice registered nurses or physician assistants] medical
79 professionals or hospitals, ensure the industry's solvency and ensure
80 that such liability insurance is available and affordable.

81 (d) (1) The commissioner shall establish an electronic database
82 composed of closed claim reports filed pursuant to this section.

83 (2) The commissioner shall compile the data included in individual

84 closed claim reports into an aggregated summary format and shall
85 prepare a written annual report of the summary data. The report shall
86 provide an analysis of closed claim information including a minimum
87 of five years of comparative data, when available, trends in frequency
88 and severity of claims, itemization of damages, timeliness of the claims
89 process, and any other descriptive or analytical information that would
90 assist in interpreting the trends in closed claims.

91 (3) The annual report shall include a summary of rate filings for
92 professional liability insurance for [physicians, surgeons, hospitals,
93 advanced practice registered nurses and physician assistants] medical
94 professionals or hospitals, which have been approved by the
95 department for the prior calendar year, including an analysis of the
96 trend of direct losses, incurred losses, earned premiums and
97 investment income as compared to prior years. The report shall
98 include base premiums charged by insurers for each specialty and the
99 number of providers insured by specialty for each insurer.

100 (4) Not later than March 15, 2007, and annually thereafter, the
101 commissioner shall submit the annual report to the joint standing
102 committee of the General Assembly having cognizance of matters
103 relating to insurance in accordance with section 11-4a. The
104 commissioner shall also (A) make the report available to the public, (B)
105 post the report on its Internet site, and (C) provide public access to the
106 contents of the electronic database after the commissioner establishes
107 that the names and other individually identifiable information about
108 the claimant and practitioner have been removed.

109 (e) The Insurance Commissioner shall provide the Commissioner of
110 Public Health with electronic access to all information received
111 pursuant to this section. The Commissioner of Public Health shall
112 maintain the confidentiality of such information in the same manner
113 and to the same extent as required for the Insurance Commissioner.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2007</i>	38a-395
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INS *Joint Favorable Subst.*